

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 4456 of 2007(E)

**AGAINST THE ORDER DATED IN E.P.NO. 89/2001 IN
OS.1157/1987 OF SUB COURT, MUVATTUPUZHA**
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PETITIONERS:

- 1. SHRI.K.J.JOSEPH, AGED 52,
S/O.JOSEPH, KUNNASSERIYIL HOUSE,
THIRUVAMPADY P.O., NECHOR,
KOTTAYAM.**
- 2. JESSY SIMON, W/O.K.J. JOSEPH,
KUNNASSERIYIL HOUSE, THIRUVAMPADY P.O.,
NECHOR, KOTTAYAM.**

**BY ADV. SRI.PRAVEEN K. JOY,
SRI.R.ARUN.**

RESPONDENT:

**THE MANAGER, CATHOLIC SYRIAN BANK LTD.,
KADUTHURUTHY BRANCH, KOTTAYAM.**

BY ADV. SRI.PETER THARAKAN.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C). NO.4456/2007:

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P.1: COPY OF THE JUDGMENT IN W.P.(C). NO. 32866/2004 BEFORE THIS
HONOURABLE COURT DTD. 13/10/2006.**

**EXT.P.2: COPY OF THE E.A. NO. 1531/2004 ON THE FILES OF SUB COURT,
MUVATTUPUZHA DTD. 03/12/2004.**

**EXT.P.3: COPY OF THE E.A. NO. 28/2007 ON THE FILES OF SUB COUT, MUVATTUPUZHA
DTD. 02/02/2007.**

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

M.N.KRISHNAN, J

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W.P.(C) No.4456 OF 2007

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Dated this the 2nd day of July, 2007

JUDGMENT

This writ petition is filed seeking to set aside the order passed by the executing court in confirming the sale. The execution petition was one for realisation of the amount by sale of the property and subsequent to the sale within the statutory period, an application was filed to set aside the order passed under Order XXI Rule 90 C.P.C. Without disposing of that application, the executing court has confirmed the sale. The said confirmation is irregular and invalid in law. Therefore the confirmation of the sale is set aside and the trial court is directed to consider the application filed for setting aside the same after hearing both sides and thereafter pass appropriate orders in accordance with law. The parties are directed to appear before the trial court on 30.7.2007 and the trial court Judge is directed to dispose of the matter within two months from the date of appearance of the parties before the court below.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

-:2:-

Cdp/-